

## Office of Federal Contract Compliance Programs

NPRM: Obligation to solicit race and gender data for agency enforcement purposes – RIN 1215-AB45

Meeting: May 21, 2004, 1:30 PM, OFCCP Conference Room

Attendance: As per attached sign-in sheet

### Description of Information Presented:

#### A. Background

Siemens has filed written comments with the EEOC on the four-agency information collection notice relating to Internet applicants, and is preparing to file written comments in response to OFCCP's NPRM.

Siemens has over 117,000 employees worldwide, with over 60,000 in the United States.

The company receives 250,000 to 270,000 job applications per year. At present the company has about 1085 jobs open, for which they have 80,500 applications.

A common personnel data system – PeopleClick – is used throughout most of the company. Applications are received in many different ways (e.g., paper resumes submitted at job fairs, via fax, from Internet sources such as Monster.com). All are converted into electronic format and included in the common data system.

#### B. Issues Presented

1. Distinction in NPRM between Internet applicants and paper applicants – Siemens referred to this as the "portal issue." They convert all applications into electronic format before they do any screening. Although applications may come in the door through different means, all are handled the same – electronically. Accordingly, Siemens thinks that the rule should not focus on the method of intake. Employers should have the ability to treat all applications as Internet applications. Having two different standards for treating applications, depending on how they come in the door, is a recipe for disaster from both a compliance and an enforcement standpoint.

2. The point at which applicant-tracking requirements should be applied – Example: An employer wants to fill a job for which there are six minimum qualifications. However, unsure how many expressions of interest it is

going to receive, and wanting to ensure that it receives an adequate number, the employer places a very general advertisement, e.g., for an engineer with at least two years of experience. Because the job market is tight, 10,000 people express interest in the job. This is far too many for a recruiter to handle, so the employer "drills down" into the 10,000 resumes through the use of additional minimum qualifications. Perhaps the first screen is for people with telecommunications industry experience, which winnows the number down to 100. Then other screens might be applied until a manageable level of 30-50 is reached. This is the stage at which the personnel recruiter starts actual consideration of individuals. It is still in advance of the interview stage (i.e., only some of the 30-50 who are evaluated by the recruiter will be brought in for interview). Stated another way, this is the first point at which a decision is made – a human makes an "assessment," evaluating individuals against a job vacancy or against other individuals. In Siemens' view, this is when there is a transition from simply being in the pool to becoming an actual "applicant."

Siemens asserts that the regulation needs to accommodate this sort of "drill down" technique. Whether the employer winnows the pool down to a manageable level in one or two steps, or 10, should be irrelevant. In other words, the employer who gets to 30 candidates by applying six minimum qualification standards in multiple "drill down" steps should be treated the same as the employer who gets to the same place by applying all six standards in the one advertisement step.

Siemens expressed concern that OFCCP's proposed standard of "advertised, basic qualifications" would not afford employers the flexibility to manage the volume of employment submissions to the extent that the "drill down" database searches were based on qualifications that were not advertised. Siemens asserted that, at the time of making decisions on which qualifications to advertise, employers cannot foresee what qualifications will be needed to sufficiently "drill down" the database to identify a reasonable number of submissions for consideration. Siemens suggested that OFCCP expressly define the term "consider" in the OFCCP proposal to encompass the practical point at which Siemens suggests an employment submission is that of an "applicant" as described above. Siemens did not offer specific suggestions of how "consider" might be defined to arrive at the practical position Siemens requested, although Siemens noted that it would discuss specifics in its written comments to OFCCP.

Siemens conceded two points: (1) that all "drill down" factors must be "legitimate"; and (2) that applicant tracking should begin at a stage above the interview (i.e., when human consideration and decisions begin).

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